

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 1:15-cr-0029-SEB-DKL
	)	
ARNOLD JONES,	)	
	)	- 01
Defendant.	)	

**REPORT AND RECOMMENDATION**

On November 27, 2019, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on November 19, 2019. [Dkt. 44.] Defendant Jones appeared in person with his appointed FCD counsel Joseph Cleary. The government appeared by Jeff Preston, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Jason Nutter.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Jones of his rights and ensured he had a copy of the Petition. Defendant Jones orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Jones admitted violation nos. 2 and 4 as set forth in the Petition. [Dkt. 44.] Government moved to dismiss violation numbers 1, 3, 5, 6, 7, and 8 and the same was granted.
3. The allegations to which Defendant admitted, as fully set forth in the Petition, are:

<b><u>Violation Number</u></b>	<b><u>Nature of Noncompliance</u></b>
2	<p><b>“The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance.”</b></p> <p>The offender submitted a sample that tested positive for amphetamines on November 1, 2019.</p>
4	<p><b>“You shall reside in a residential reentry center for a term of up to 120 days. You shall abide by the rules and regulations of the facility.”</b></p> <p>The offender failed to report to the RRC upon his release from imprisonment on October 2, 2019.</p>

4. The Court finds that:
  - (a) The highest grade of violation is a Grade B violation.
  - (b) Defendant’s criminal history category is VI.
  - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 21 to 24 months’ imprisonment.

5. The parties jointly recommended a sentence of twelve (12) months and one (1) day with twelve (12) months of supervised release to follow. Defendant requested placement at FCI Oxford, Wisconsin.

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions of his supervised release as set forth in violation numbers two and four of the Petition, and recommends that Defendant’s supervised release be revoked, and that Defendant be sentenced to the custody of the Attorney General or his designee for a period of twelve (12) months and one (1) day with twelve (12) months of supervised release to follow. In addition to the mandatory conditions of supervision, the following conditions of supervised release will be imposed:

1. You shall report to the probation office in the judicial district to which you are released within 72 hours of release from the custody of the Bureau of Prisons. (supervised release cases only)  
Justification: This condition is an administrative requirement of supervision.
2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer. Justification: This condition is an administrative requirement of supervision.
3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.  
Justification: This condition is an administrative requirement of supervision.
4. You shall not knowingly leave the judicial district without the permission of the court or probation officer.  
Justification: This condition is an administrative requirement of supervision.
5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.  
Justification: This condition is an administrative requirement of supervision.
6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.  
Justification: This condition is aimed at reducing the risk of recidivism and providing for public safety.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in who lives there, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.  
Justification: This condition will assist the probation officer in monitoring the defendant for protection of the community.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.  
Justification: This condition will provide for public and officer safety.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.  
Justification: This condition will assist the probation officer in monitoring the defendant for protection of the community.

10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.  
Justification: This condition will ensure the defendant maintains gainful employment and reduce the risk of recidivism.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.  
Justification: This condition will assist the probation officer in monitoring the defendant for protection of the community.
12. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and/or shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.  
Justification: This condition will reduce the risk to the community posed by the offense of conviction, as well as the offender's personal history and characteristics.
13. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.  
Justification: This condition is an administrative requirement of supervision.
14. You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (provider, location, modality, duration, intensity, etc.). The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.  
Justification: Due to the offender's history of substance abuse, this condition is meant to address the offender's treatment needs in the most efficient manner. If HE OR SHE tests positive for illegal drugs, a treatment condition will allow the probation officer to immediately refer HIM OR HER for treatment rather than waiting until HIS OR HER conditions can be modified.
15. You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.  
Justification: Based on the nature of the instant offense, this condition will deter any unlawful use or possession of controlled substances.
16. You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods.  
Justification: This condition will allow the probation office to monitor the offender's sobriety.

17. You shall not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances (e.g., synthetic marijuana, bath salts, Spice, glue, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption.

Justification: Based on the nature of the instant offense, this condition will deter any unlawful possession or use of psychoactive substances.

18. You shall participate in a mental health treatment program, as approved by the probation officer, and abide by the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). You shall take all mental health medications that are prescribed by your treating physician. The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.

Justification: Due to the offender's history of mental health concerns, this condition is meant to address the offender's treatment needs in the most efficient manner.

19. You shall pay the costs associated with the following imposed conditions of supervised release: substance abuse treatment; substance abuse testing; mental health treatment, to the extent you are financially able to pay. The probation officer shall determine your ability to pay and any schedule of payment.

Justification: This condition will require the offender to invest in his own rehabilitation

20. You shall provide the probation officer access to any requested financial information and shall authorize the release of that information to the U.S. Attorney's Office for use in connection with the collection of any outstanding fines and/or restitution.

Justification: Due to the restitution owed by the offender.

21. You shall not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

Justification: Due to the restitution owed by the offender.

22. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.

Justification: To promote community safety.

Defendant reviewed the foregoing conditions and they were reviewed by defendant with his

attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised


release. In addition to the above-noted conditions the following condition was read into the record:

23. You shall reside in a residential reentry center for a term of up to 180 days. You shall abide by the rules and regulations of the facility.

The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Magistrate Judge further recommends Defendant's placement at FCI Oxford, Wisconsin.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: 4 DEC 2019



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Mark J. Dinsmore  
United States Magistrate Judge  
Southern District of Indiana

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